

## Case 13 – Chloe

**Chloe, aged 17, presents to you, her family doctor for all her life, with vaginal discharge. Tests reveal she has Chlamydia. She states strongly that she doesn't want her parents to know as they don't want her going out with her boyfriend Luke, who is 18.**

### Best Practice Response

- Provide a clear explanation of chlamydia and its potential long-term implications for Chloe and Luke and any other partner(s).
- Advise Chloe about sexually transmitted diseases, safe sexual practices and contraception.
- Discuss that she will need to tell Luke, and that he will need to be tested.
- Chlamydia is a nationally notifiable disease –inform Chloe of this and notify appropriately.
- Gently question Chloe about the relationship with Luke with a view to establishing whether the relationship is abusive, in case she is at risk of harm - you have mandatory reporting requirements, which vary across the states and territories (1) – call your MDO for advice.
- If you have decided that Chloe is mature enough in this circumstance, you can assure her that you will not tell her parents. You would need to be confident that Chloe will be compliant with treatment.
  - Common law recognises that a child or young person may have the capacity to consent to medical treatment on their own behalf, and without their parents' knowledge (2). This is known as "Gillick competence", based on a 1986 English judgment (3), which stated that the child must have a "sufficient understanding and intelligence to enable him or her to fully understand what is proposed".
  - The Privacy Act does not specify an age after which individuals can make their own privacy decisions. The Office of the Australian Information Commissioner advises to assess on a case-by-case basis whether someone under the age of 18 has the capacity to consent, being that they have sufficient understanding and maturity to understand what is being proposed. If it is not practicable or reasonable to assess this capacity, you can presume that someone 15 or over has capacity to consent, and someone under 15 does not (4).
  - In New South Wales and South Australia a child's capacity to consent to medical treatment is regulated by statute, and children can consent to their own treatment once they are 14 in NSW (5) and 16 in SA (6).
- The legal age of consent for consensual sex is 16 years of age in the ACT, NSW, NT, Queensland, Victoria and WA; and 17 years of age in Tasmania and SA.

- (1) Child Family Community Australia. *Mandatory reporting of child abuse and neglect*. 2016; Australian Institute of Family Studies. Available at <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>.
- (2) Bird S. *Consent to medical treatment: the mature minor*. Australian Family Physician. 2011; 40(3):1-2.) Pdf available at <http://www.racgp.org.au/afp/2011/march/consent-to-medical-treatment-the-mature-minor/>
- (3) *Gillick v West Norfolk & Wisbech Area Health Authority* [1986] 1 AC 112
- (4) Office of the Australian Information Commissioner. *APP Guidelines. Chapter B: Key concepts*. 2015; B.56 – B.58. Pdf available at <https://www.oaic.gov.au/agencies-and-organisations/app-guidelines/chapter-b-key-concepts>
- (5) Section 49 (2) Minors (Property and Contracts) Act 1970 (NSW)
- (6) Section 6 (1) Consent to Medical and Dental Procedures Act 1985 (SA)

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